

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Generic Investigation or	:	P-2011-2277868
Rulemaking Regarding “Gas-on-Gas”	:	
Competition Between Jurisdictional	:	
Natural Gas Distribution Companies	:	

Generic Investigation Regarding	:	I-2012-2320323
“Gas-on-Gas” Competition Between	:	
Jurisdictional Natural Gas Distribution	:	
Companies	:	

PRHEARING ORDER

Two separate natural gas distribution companies (NGDCs) (Peoples TWP LLC and Peoples Natural Gas Company) filed a joint petition on December 8, 2011, along with the Commission’s Bureau of Investigation and Enforcement (BIE), the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA). The petition requested the Commission institute an investigation or rulemaking, pursuant to Sections 5.41 and 5.43 of the Commission's regulations, 52 Pa. Code §§ 5.41 and 5.43, to address distribution base rate discounting among NGDCs with overlapping service territories, often referred to as "gas-on-gas competition. The petition was docketed at P-2011-2277868.

This generic investigation arose from settlement agreements with Flex Rate NGDCs who uniformly agreed that it was appropriate to address gas-on-gas competition in one proceeding. The practice of gas-on-gas competition allows NGDCs to negotiate distribution rates with individual nonresidential customers that are below the approved maximum tariff rate established by the Commission. Flex Rate NGDCs are incentivized, with Commission approval, to compete for individual nonresidential customers by offering individual nonresidential customers natural gas distribution at prices less than the approved maximum tariff rate. Flex Rate NGDCs also compete in terms of quality of service and by offering other incentives. The Commission opened a generic investigation which was docketed at I-2012-2320323.

On December 28, 2011, the Industrial Energy Consumers of Pennsylvania (IECPA) filed an Answer not opposing an investigation or rulemaking regarding gas-on-gas competition, asserting that current public policy supports the continued use of customer-specific discount rates based on overlapping NGDC service territories. Columbia filed a petition to intervene on March 19, 2012.

On July 25, 2012, the Commission issued a Secretarial Letter directing the Office of Administrative Law Judge (OALJ) to initiate a generic proceeding to address “the issues related to an NGDC’s flexing of distribution rates to meet the lower rates from other NGDCs and the treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings.”¹ The Commission invited other parties to file interventions in order to participate in the proceeding.

Petitions to Intervene were subsequently filed by UGI Utilities, Inc. – Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (collectively UGI Distribution Companies) on August 9, 2012; National Fuel Gas Distribution Corporation (NFGD or National Fuel) on August 15, 2012; the Pennsylvania State University (PSU) on August 17, 2012; PECO Energy Company (PECO) on August 22, 2012; Equitable on August 23, 2012; and IECPA on August 28, 2012.

On June 24, 2014, Administrative Law Judge (ALJ) Elizabeth Barnes (ALJ Barnes) issued a Recommended Decision which recommended the Commission issue a statement of policy or order for the purpose of amending and phasing out by December 31, 2018, Gas-on-Gas Competition among NGDCs or, in the alternative, issue an order or statement of policy adopting a Proposal submitted by Peoples in its’ Main Brief. The Recommended Decision also recommended the Commission should appoint a working group including stakeholders and representatives from the Commission’s Bureau of Technical Utility Services and Law Bureau to address the methodology for phasing out and dividing service territories or modifying Gas on Gas Competition going forward.

¹ Secretarial Letter of July 25, 2012, regarding Generic Investigation of Gas-On-Gas Competition Issues.

Also in 2014, T.W. Phillips Gas and Oil Co., Equitable Gas Company and Peoples Natural Gas Company LLC through acquisition and merger, were consolidated

On May 4, 2017, the Commission entered an Order (2017 Order) that, *inter alia*, stated gas-on-gas discounts should continue to be offered to commercial and industrial customers that have the capacity to receive service from more than one NGDC.² The Commission placed NGDCs on notice that recovery of any foregone revenues beyond December 31, 2018, related to gas-on-gas competitive discounts, might not be permitted for gas-on-gas competition under specific conditions and the Commission sought comments on appropriate modifications to gas-on-gas flexible rate tariffs.

On June 13, 2019, the Commission entered another order to provide additional guidelines and conditions for competitive NGDCs and articulated four open issues (2019 Order). Comments were filed by Columbia Gas of Pennsylvania, Inc. (Columbia); Peoples Natural Gas Company, LLC (Peoples NG); Peoples TWP, LLC (Peoples TWP); the Industrial Energy Consumers of Pennsylvania (IECP); the Office of Consumer Advocate (OCA); and the Office of Small Business Advocate (OSBA). In the 2019 Order, the Commission established a working group of impacted industry parties to address the open items. This working group was instructed to work together to reach a consensus resolution of the open issues, working collaboratively with Commission staff in the Bureau of Technical Utility Services (TUS) and the Law Bureau.

On March 28, 2025, the Commission issued a Secretarial Letter to inform all interested parties that the remaining open issues in the Gas-on-Gas dockets were reassigned to the OALJ for resolution. Although the parties met collaboratively with the designated Commission staff as directed, the parties advised the Commission no consensus could be reached on the outstanding issues. Accordingly, given the nature of the controversy and the passage of time, the entities involved requested that the record be reopened and transferred to the Office of

² Specifically, the 2017 Order outlined the customers eligible for the gas-on-gas discount were those industrial customers which were capable to receive service from more than one NGDC and if there was a rate floor based on the lowest applicable tariff rate available to a gas-on-gas customer and the establishment of uniform gas-on-gas flex rate tariff provisions among NGDCs with overlapping service territories.

Administrative Law Judge (OALJ) so that testimony, exhibits, input from affected customers and statutory advocates and briefs could be provided to the Commission, followed by a Recommended Decision regarding the disposition of gas-on-gas competition in Pennsylvania.

On April 2, 2025, the OALJ issued the Call-In Telephone Prehearing Conference Notice which scheduled the prehearing conference for April 22, 2025, by telephone. Also, on April 2, 2025, the presiding officer issued the Prehearing Conference Order which reminded the parties about the prehearing conference scheduled for April 22, 2025, and further reminded participants about procedural matters.

On April 22, 2025, the presiding officer convened the prehearing conference with the following participants: the Bureau of Investigation and Enforcement (BIE); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); Peoples Natural Gas Company, LLC (Peoples); Columbia Gas of Pennsylvania, Inc. (Columbia); National Fuel Gas Distribution Corporation (NFG); and Pennsylvania State University (PSU).

Various matters were discussed, primarily the positions of the parties present about the status of the proceedings, the viability of the P-docket (due to the merger of the three NGDCs petitioners that now is represented by the successor in title, Peoples Natural Gas Company LLC), and the parties' positions about the path for moving forward to come to a resolution.

After discussion, the parties agreed the first step forward is to determine how often the program of gas-on-gas competition and/or flex rates are applied currently by the NGDCs whose territories include western Pennsylvania. Specifically, the parties present agreed the NGDCs should provide the current state of gas-on-gas competition with each territory, including the number of gas-on-gas customers, the volumes and the dollars involved. The parties agreed the information should be provided without identifiers about the customers which receive Flex Rate pricing and being mindful of the possible need for a protective order.

The presiding officer noted the easiest way to get the data to the parties might be through the filing of direct statements by each NGDC with territories in western Pennsylvania. The presiding officer indicated the parties, and the NGDCs in particular, were responsible to request a protective order if needed, and a subsequent prehearing conference should be conducted in a couple months' time, after the parties have considered received information from the NGDCs.

AND NOW THEREFORE,

IT IS ORDERED:

1. That, on or before July 20, 2025, the natural gas distribution companies, that have western Pennsylvania included within their distribution service territory, shall serve upon the presiding officer and the other active parties the following information:

- a. The number of customers currently using a Flex Rate and/or involved in a gas-on-gas competition program;
- b. The total volume of natural gas provided to these customers per year in the 2024 calendar year;
- c. The volumetric methodology used by the NGDC to quantify the volumes of natural gas provided to these customers;
- d. The total dollars received for participation in the Flex Rate and/or gas-on-gas competition program from the customers listed in subsection (a) above, in the 2024 calendar year.
- e. The number of customers who received a Flex Rate and/or were included in the NGDC's gas-on-gas competition program for the 2021 calendar year;
- f. The total volume of natural gas provided to the customers listed in subsection (e) above, in the 2021 calendar year.
- g. The total dollars received from the customers listed in subsection (e) for the 2021 calendar year.

2. That the NGDCs providing information, as outlined in Ordering Paragraph 1 above, shall provide the information requested with non-identifying information about the customers involved.

3. That the NGDCs providing information, as outlined in Paragraph 1 above, shall provide the information in a question-and-answer format, with verification from the declarant, and may attach or provide separately-identified exhibits.

4. That a second prehearing conference will be scheduled in August 2025 or September 2025 to review the information to be provided pursuant to Ordering Paragraph 1 above, although the parties may request to have the second prehearing conference rescheduled provided the request is received at least 5 business days prior to the second prehearing conference.

5. That the Parties List has been revised and should be used by the parties until a subsequent revision of the Parties List.

6. That a revised Parties List will be issued after this Prehearing Order that will remove all entities that did not participate in the Prehearing Conference on April 22, 2025, unless the entity files with the Secretary's Bureau a request to remain on the Parties List, on or before June 18, 2025.

7. That, if a NGDC affected by this Order has questions or concerns about the data being sought, as outlined in Ordering Paragraph 1 above, the NGDC shall serve those concerns on the presiding officer and active parties on or before June 18, 2025.

Date: May 20, 2025

Katrina L. Dunderdale
Administrative Law Judge

P-2011-2277868 - JOINT PETITION FOR GENERIC INVESTIGATION.

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